

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF WEST VIRGINIA
(CLARKSBURG)
CIVIL ACTION NO. 1:10-cv-105

MARY LOUISE PEASLEE,
Individually and as Executrix
of the Estate of Paul C. Peaslee, DEPOSITION OF:
deceased, JOHN PEASLEE
Plaintiff,
vs.
KAWASAKI MOTORS CORP., USA,
a foreign corporation,
Defendant.

**Certified
Transcript**

TRANSCRIPT of the stenographic
notes of the proceedings in the above-entitled
matter, as taken by and before Debra A. Volk, a
Professional Court Reporter and Notary Public of
the State of West Virginia, held at the offices
of ESTEP & SHAFFER, LC, 212 W. Main Street,
Kingwood, West Virginia 26537, on February 15,
2011, commencing at 10:11 a.m.

Job No. CS311586

EXHIBIT

E

1 Q. Now, you're in the garage and what
2 made you think to go look for Paul?

3 A. Because he didn't -- he said he'd be
4 right back and he didn't come back, so I went to
5 looking for him.

6 Q. I see. Just for my clarification he
7 had left approximately what time in the morning?

8 A. I'd say 9:00 or around there, between
9 9:00 and 9:30.

10 Q. Okay. So it could've been 9:00 in
11 the morning?

12 A. Yes, sir.

13 Q. Anywhere between 9:00 and 9:30 he
14 left?

15 A. Yes, sir.

16 Q. And where was he going again? What
17 was his purpose of going?

18 A. He was going to check the cattle and
19 feed them.

20 Q. And what did he have to check them
21 for?

22 A. To see everything was all right and
23 give them some feed.

24 Q. Do you know if he had feed in the
25 Mule?

1 would you happen to have or would you have had to
2 have walked past the trough?

3 A. Yes, sir.

4 Q. But you just didn't look in to see if
5 it was filled with feed or not?

6 A. No, sir.

7 Q. Correct?

8 A. Correct.

9 Q. When was the first instance that you
10 saw the Mule vehicle when you set out to go look
11 for Paul?

12 A. What was the first incident?

13 Q. Instance. Like the first time you
14 saw the Mule?

15 A. When I was going up over up to the
16 field and on top of the hill.

17 Q. Okay.

18 A. I seen it down in the hollow.

19 Q. Let me stop you there. How long did
20 it take you to get from the garage to the top of
21 the hill in your mind?

22 A. Twenty-five (25) minutes probably.

23 Q. Do you have to walk -- at that time
24 did you walk with a cane or any assistance?

25 A. No, sir.

1 A. Yes.

2 Q. Okay.

3 A. I'd say between 40s and 50s.

4 Q. Okay. Because this is around what
5 time in the morning? I think you mentioned
6 before it might've been around 10:30?

7 A. Yes.

8 Q. It wasn't raining; was it?

9 A. No, sir.

10 Q. So you saw the Mule on its driver's
11 side. What did you do next?

12 A. I went to the Mule and asked him what
13 happened. He said he bumped a button on the
14 emergency brake.

15 Q. Well, before you got to him -- I'm
16 sorry, did -- could you tell where he was?

17 A. Not until I got down to the Mule.

18 Q. And what's the first thing you saw
19 when you got down to the Mule?

20 A. Well, he was laying there inside of
21 it. I asked him what happened.

22 Q. He was lying inside the Mule?

23 A. Yes, sir, with his feet out the side
24 of it, his two feet.

25 Q. So his body, his torso was in the

1 cabin of the Mule?

2 A. Yes, sir.

3 Q. And his legs were --

4 A. Sticking out.

5 Q. Sticking out or sticking under?

6 A. Sticking under. His ankles, both his
7 ankles were sticking out from under.

8 Q. Was his back towards you?

9 A. No, he was laying on his back.

10 Q. He was laying on his back, okay.

11 Were both his legs under the Mule or just one?

12 A. Both of them.

13 Q. Did you happen to see if the feed was
14 in the back of the truck?

15 A. It was on the ground.

16 Q. It was on the ground?

17 A. Yes, sir.

18 Q. So he hadn't got to feed the cattle
19 yet?

20 A. No, sir.

21 Q. What was he doing over by the fence
22 area where you found him?

23 A. He was -- had a couple going and he
24 was checking around to see if he could find them.

25 Q. I don't understand what you mean. He

1 A. Yes, sir.

2 Q. Okay. Did he say that any other part
3 of his body was hurting?

4 A. He said he was in a lot of pain.

5 Q. Did he say where?

6 A. He said his ankles and legs were
7 hurting him.

8 Q. Okay. Did he ask you to go get help?

9 A. Yes, sir.

10 Q. Or did you just do that on your own?

11 A. Well, both of us.

12 Q. Did he tell you to go back or did he
13 tell you to call 911?

14 A. Yes, he told me to go call 911.

15 Q. Okay. Did you call 911?

16 A. No, he called. And I went to another
17 place to call them, but he had already called
18 them and they were on their way until I got to
19 coming back from where I went to call.

20 Q. Now, how did he call 911?

21 A. He had my cell phone.

22 Q. When you went to go look for him you
23 didn't have your own cell phone on you?

24 A. Yes, sir, I did.

25 Q. You have two cell phones?

1 Q. Now, you mentioned that you thought
2 you took off to go look for your brother or left
3 to go look for your brother around 9:00 a.m.; is
4 that right? Between 9:00 and 9:30 a.m.?

5 A. Yes, somewhere around there, yes.

6 Q. And it took you about 25 minutes to
7 get to the top of the hill?

8 A. Yes, sir.

9 Q. Now, when you went down to
10 investigate the Mule and saw your brother there
11 how long had it -- how long -- strike that.

12 The Mule was at the bottom of this
13 ravine and you saw it; correct?

14 A. Yes, sir.

15 Q. You didn't know where your brother
16 was at that point?

17 A. Yes, sir.

18 Q. So you'd go down to the Mule and see
19 that your brother is part in the Mule with his
20 legs underneath?

21 A. Yes, sir.

22 Q. And he is able to communicate with
23 you; correct?

24 A. Yes, sir.

25 Q. He's able to talk to you?

1 A. Yes, sir.

2 Q. All right. And you understood what
3 he was saying?

4 A. Yes, sir.

5 Q. And was he lucid? Was he
6 conversational?

7 A. Yes, sir.

8 Q. Now, how come -- you took out your
9 cell phone to call for help; correct?

10 A. I tried to get them and I couldn't
11 get them through. I gave it to him and he got
12 through to them.

13 Q. How come you couldn't get through?

14 A. I was too excited I think.

15 Q. Okay. So you gave the phone to your
16 brother and he was able to get through?

17 A. Yes, sir.

18 Q. So he was less excited than you were?

19 A. Evidently.

20 Q. Evidently you were more excited than
21 he was?

22 A. Yes, sir.

23 Q. Now, you get up to your brother, you
24 can't work your cell phone, so your brother asks
25 for the cell phone?

1 A. Right.

2 Q. And that was all the conversation you
3 ever had with your brother up until he left the
4 scene about how the accident happened?

5 A. Right.

6 Q. Correct?

7 A. Correct.

8 Q. Did you see -- as you're sitting here
9 today, John, do you happen to recall the position
10 of the parking brake?

11 A. No, sir.

12 Q. Now, did Paul go into the ambulance
13 to get transported to a hospital?

14 A. They transported him up on top of the
15 hill and they flew him to the hospital. They
16 transported him in an ambulance up on top of the
17 hill, and then a helicopter took him to the
18 hospital.

19 Q. Did the helicopter come to the top of
20 the hill?

21 A. Yes, sir.

22 Q. Where did the helicopter take him?

23 A. Took him to Ruby.

24 Q. I'm sorry?

25 A. Ruby Memorial in Morgantown.

1 Q. Okay. And you mentioned that you
2 arrived at the garage around 8:30 in the morning
3 that morning; correct?

4 A. Somewhere around there, yes.

5 Q. And Paul was already there; correct?

6 A. Well, he was either there or shortly
7 after I got there. One or the other.

8 Q. Okay. So around 8:30 in the morning,
9 approximately around 8:30 in the morning you both
10 got to the garage?

11 A. Yes, sir.

12 Q. And then around I think you mentioned
13 around 9:00 is when you think he might've left,
14 between 9:00 and 9:30, he might've left the
15 garage to go do his chores?

16 A. Yes, sir.

17 Q. Okay. And then you waited until
18 about 10:00 to go look for him?

19 A. Somewhere around there I'd say, yes.

20 Q. Within 15 minutes, 9:45, 10:15?

21 A. Somewhere around there.

22 Q. Is that accurate? Is that fair to
23 say?

24 A. Well, about a half an hour I'd say.

25 Q. A half hour from?

1 A. From the time he left until I went
2 looking for him.

3 Q. Okay. So if he left at 9:00 then you
4 left around 9:30-ish?

5 A. 9:30-ish or quarter 'til 10:00,
6 somewhere along in there.

7 Q. Quarter of 10:00?

8 A. Yes.

9 Q. So give or take 15 minutes, a half
10 hour, give or take 15 minutes?

11 A. Right.

12 Q. And then it took you about a half
13 hour from that point on to go -- to actually see
14 the Mule; is that correct?

15 A. Yes, sir.

16 Q. And that was when you were at the top
17 of the hill?

18 A. Yes, sir.

19 Q. In your truck?

20 A. Yes, sir.

21 Q. Or in Paul's truck?

22 A. His truck. His truck.

23 Q. And so by the time you first started
24 out to go look for Paul it took about an hour to
25 finally -- I'm going to strike that.

1 By the time Paul left the garage that
2 morning it was about an hour later that you found
3 him?

4 A. Right.

5 Q. Okay. And again, give or take 15
6 minutes?

7 A. Right.

8 Q. Now, I think you mentioned you didn't
9 have anymore conversations about how the accident
10 happened, but when you got down to Paul his legs
11 were under the Mule and his body, torso was in
12 the Mule, but did he say how long he'd been like
13 that?

14 A. No, sir, he didn't.

15 Q. So he didn't say how long ago the
16 accident happened?

17 A. No, sir.

18 Q. Do you know if he told anyone how
19 long he had been under the Mule?

20 A. No, sir, I don't.

21 Q. And he didn't tell you what part of
22 the body hit the parking brake; correct?

23 A. He didn't say, no, sir.

24 Q. He didn't tell you what part of his
25 body hit the parking brake; correct?

1 A. No, sir.

2 Q. So he -- when he said that the brake
3 was, I think your words were, when he knocked the
4 button is what you said, John, he didn't say
5 what part of his body knocked the button?

6 A. He didn't say.

7 Q. Correct? Yes, he did not say?

8 A. Yes.

9 Q. I'm sorry. You saw the Mule when you
10 were on top of the hill sitting in the Ford truck
11 when you went to go look for your brother.

12 What's that slope of the hill down to where the
13 Mule was located, if you know?

14 A. About like that, whatever that means
15 (indicating).

16 Q. Okay. How far is it from the top of
17 the hill to --

18 A. A quarter of a mile.

19 Q. -- where the Mule was located? A
20 quarter of a mile?

21 A. Yes.

22 Q. Is that in your estimation, is that a
23 steep hill or a shallow hill?

24 A. Well, shallow I'd say.

25 Q. Okay. And your brother didn't tell